

HOUSE No. 879

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian and Patrick M. Natale relative to improving the sex offender registry in the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO IMPROVING THE SEX OFFENDER REGISTRY IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 This act may be known and cited as the “Joanne and Alyssa
2 Act.”

1 SECTION 1. Chapter 27 of the Massachusetts General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 adding the following new section 4A after section 4:—

4 Section 4A. The Parole Board shall establish in each region an
5 intensive parole sex offenders program. Such programs shall be
6 established subject to appropriation, and shall be modeled upon
7 the current program operated by the parole board in Middlesex
8 County, and shall include unannounced visits, counseling, elec-
9 tronic monitoring, random drug testing, polygraph testing and
10 other aspects of intensive supervision.

1 SECTION 2. Chapter 6 of the Massachusetts General Laws,
2 section 178E, subsection (a), as amended by Chapter 77 of the
3 Acts of 2003 and as further amended by Chapter 140 of the Acts
4 of 2003, is hereby further amended by striking out said subsection
5 and inserting in place there of the following text:

6 “(a) Within five days of receiving upon sentence any sex
7 offender required to register pursuant to sections 178C to 17Q,
8 inclusive, who shall serve an actual sentence of more than one
9 year of incarceration, the agency which has custody of the sex

10 offender, including the department of correction, the department
11 of youth services and each of the houses of correction, shall
12 transmit to the board said sex offender's registration data, which
13 for purposes of this paragraph shall include identifying factors,
14 anticipated future residence, offense history, documentation of any
15 treatment received for a mental abnormality, the official version of
16 any sex offenses, the mittimus, and any prior incarceration history.
17 The custodial agency shall also provide to the board within five
18 days of assuming custody the projected maximum release date and
19 the earliest possible release date for the sex offender. All custo-
20 dial agencies shall comply with the transmission of said data iden-
21 tified in this section within five days of receiving custody of the
22 sex offender. All custodial agencies shall inform the board imme-
23 diately of any transfers of sex offenders so that there may be con-
24 tact with the offender throughout the classification process. The
25 board shall promptly transmit the registration data to the police
26 departments in the municipalities where the sex offender intends
27 to live and work and where the offense was committed and to the
28 Federal Bureau of Investigation. The sex offender shall be
29 informed by, and shall acknowledge in writing to, the agency
30 which has custody of the sex offender of the duty to register in the
31 commonwealth and in any state where he resides, is employed,
32 carries on a vocation or is a student, to verify registration informa-
33 tion, to give notice of change of address or intended change of
34 address within the commonwealth or in another state and the
35 penalties for failure to do so and for giving false registration
36 information, and of his right to submit to the board, according to
37 section 178L, documentary evidence relative to his risk of reof-
38 fense, the degree of dangerousness posed to the public and of his
39 duty to register under this section. If such sex offender is a juve-
40 nile at the time of such notification, notification shall also be
41 mailed to such sex offender's legal guardian or agency having
42 custody of the juvenile in the absence of a legal guardian and his
43 most recent attorney of record. The agency shall transmit such
44 acknowledgment to the board within ten days of receipt of such
45 acknowledgment. Not later than two days before his release from
46 custody, a sex offender shall register by mailing to the board on a
47 form approved by the board and signed under the pains and penal-
48 ties of perjury, the sex offender's name, date of birth, home

49 address or intended home address, work address or intended work
50 address and, if the sex offender is or intends to become a part-time
51 or full-time employee of an institution of higher learning, the
52 name and address of the institution, and, if the sex offender is or
53 intends to become a part-time or full-time student of an institution
54 of higher learning, the name and address of the institution. No
55 sex offender shall be released from custody unless such registra-
56 tion has been filled out, signed and mailed to the board.”

1 SECTION 3. Chapter 6, Section 178L(1)(a) of the Massachu-
2 setts General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended by striking subsection (a) and inserting in place
4 thereof the following text:

5 “(a) Within ten days of receipt from the department of correc-
6 tion, the department of youth services and each of the houses of
7 correction all of the information obtained pursuant to
8 section 178E(a) that pertains to an individual who shall serve an
9 actual sentence of more than one year of incarceration, the board
10 shall notify the sex offender of his right to submit to the board
11 documentary evidence relative to his risk of reoffense and the
12 degree of dangerousness posed to the public and his duty to reg-
13 ister according to the provisions of section 178E. If the sex
14 offender is a juvenile at the time of such notification, notification
15 shall also be mailed to the sex offender’s legal guardian or agency
16 having custody of the juvenile in the absence of a legal guardian
17 and his most recent attorney of record. Such sex offender may
18 submit such evidence to the board within 30 days of receiving
19 such notice from the board. Upon a reasonable showing, the board
20 may extend the time in which such sex offender may submit such
21 documentary evidence. Upon reviewing such evidence, the board
22 shall promptly notify the sex offender of the board’s recom-
23 mended sex offender classification, his duty to register, if any, his
24 right to petition the board to request an evidentiary hearing to
25 challenge such classification and duty, his right to retain counsel
26 to represent him at such hearing and his right to have counsel
27 appointed for him if he is found to be indigent as determined by
28 the board using the standards under chapter 211D; provided, how-
29 ever, that such indigent offender may also apply for and the board
30 may grant payment of fees for an expert witness in any case where

31 the board in its classification proceeding intends to rely on the tes-
32 timony or report of an expert witness prepared specifically for the
33 purposes of the classification proceeding. Such sex offender shall
34 petition the board for such hearing within 20 days of receiving
35 such notice. The board shall conduct such hearing in a reasonable
36 time according to the provisions of subsection (2). A secured
37 hearing facility shall be provided by the custodial agency. The
38 board shall issue its final classification decision prior to the
39 offender's release from custody. The failure timely to petition the
40 board for such hearing shall result in a waiver of such right and
41 the registration requirements, if any, and the board's recom-
42 mended classification shall become final."

1 SECTION 4. Chapter 6, Section 178(L) of the Massachusetts
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by adding the following section after section 2:

4 "(3) Sex Offenders recommended to be a level 1 pursuant to
5 section 178L(1) shall be exempt from the opportunity to request a
6 hearing, as this is the minimum classification permissible by oper-
7 ation of law. Level 1 recommendations shall be final classifica-
8 tion determinations, and not subject to judicial review pursuant to
9 section 178M."

1 SECTION 5. The Sex Offender Registry Board shall establish
2 an annual public service campaign, subject to appropriation, to
3 raise awareness about the sex offender registry and to encourage
4 citizens to utilize the state's internet based information services
5 and to visit their local police departments to identify sex offenders
6 in their cities or towns.

1 SECTION 6. Section 7 of Chapter 188 of the Acts of 1992 is
2 hereby amended by adding at the end of the second sentence, the
3 following words:—

4 And sex offender criminal offender record information pursuant
5 to Chapter 6 of the General Laws.

1 SECTION 7. Section 171 of Chapter 6 of the Massachusetts
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by adding at the end thereof, the following:—

4 The board shall promulgate regulations requiring sexual
5 offender registry information to be included on the criminal
6 offender record information.

1 SECTION 8. Section 178C of chapter 6 of the General Laws,
2 as most recently amended by chapter 77 of the acts of 2003, is
3 hereby further amended by inserting after the definition of “Preda-
4 tory” the following 2 definitions:—

5 “Primary address”, the one legal address of the place where a
6 sex offender lives, abides, lodges or resides for 14 or more con-
7 secutive days in the commonwealth including the address a sex
8 offender provides to the Registry of Motor Vehicles, the Depart-
9 ment of Revenue, the Department of Transitional Assistance, or
10 any other state agency a sex offender must legally provide an
11 address to receive services, permits, licenses, or benefits.

12 “Secondary addresses”, all the addresses of the places where a
13 sex offender lives, abides, lodges, or resides for a period of 14 or
14 more days in the aggregate during any calendar year and which is
15 not a sex offender’s primary address; or a place where a sex
16 offender routinely lives, abides, lodges, or resides for a period of
17 4 or more consecutive or nonconsecutive days in any month and
18 which is not a sex offender’s permanent address, including any
19 out-of-state address.

20 Said section 178C of chapter 6, is hereby further amended by
21 striking the following words “a person who resides” from the defi-
22 nition of “sex offender” and inserting in place thereof the
23 following:— a person who has a primary address or secondary
24 addresses.

1 SECTION 9. Section 178D of chapter 6, as most recently
2 amended by section 5 of chapter 140 of the acts of 2003, is hereby
3 further amended by striking out in clause (a) of the first paragraph
4 the words “home address” and inserting in place thereof the
5 following:— primary address, secondary addresses.

6 Said section 178D of chapter 6 is further amended by striking
7 out in clause (ii) of the second paragraph the words “home
8 address” and inserting in place thereof the following:— primary
9 address and secondary addresses.

1 SECTION 10. Section 178E of said chapter 6, as most recently
2 amended by chapter 140 of the acts of 2003, is hereby further
3 amended by striking out in paragraphs (a), (b), (c), (g), (h), (l),
4 and (o) the words “home address or intended home address” each
5 time they appear and inserting in place thereof the following:—
6 primary address and secondary addresses or intended primary
7 address and intended secondary addresses.

8 Said section 178E of chapter 6 is further amended by striking
9 out in paragraph (h) the words “who intends to move to a different
10 city or town within the commonwealth” and inserting in place
11 thereof the following:— who intends to change his primary
12 address or change or establish a secondary address in a different
13 city or town within the commonwealth.

14 Said section 178E of chapter 6 is further amended by striking
15 out in paragraph (h) the words “his address within a city or town
16 shall notify the board in writing not later than ten days prior to
17 establishing such new residence” and inserting in place thereof the
18 following:— his primary address and/or secondary addresses
19 within a city or town shall notify the board in writing not later
20 than ten days prior to establishing such new primary address
21 and/or secondary addresses.

22 Said section 178E of chapter 6 is further amended by striking
23 out in paragraph (q) the words “home address” and inserting in
24 place thereof the following:— primary address and secondary
25 addresses.

1 SECTION 11. Section 178F of said chapter 6, as most recently
2 amended by chapter 77 of the acts of 2003, is hereby further
3 amended by striking out in the first paragraph the words “home
4 address or intended home address” and inserting in place thereof
5 the following:— primary address and secondary addresses or
6 intended primary address and intended secondary addresses.

7 Said section 178F of chapter 6 is further amended by striking
8 out the second sentence in the first paragraph and inserting in
9 place thereof the following:— A sex offender who lists homeless
10 shelters as his primary address or secondary addresses shall verify
11 registration data every 90 days with the board by mailing to the
12 board on a form approved by the board and signed under the pains
13 and penalties of perjury the sex offender’s name, date of birth, pri-
14 mary address, secondary addresses and work address.

15 Said section 178F of chapter 6 is further amended by striking
16 out the following words in the first paragraph “the board shall
17 mail a nonforwardable verification form to the last reported
18 address of such sex offender” and inserting in place thereof the
19 following:— the board shall mail a nonforwardable verification
20 form to the last reported primary address of such sex offender.

1 SECTION 12. Section 178F½ of said chapter 6, as most
2 recently amended by chapter 140 of the acts of 2003, is hereby
3 further amended by striking out the first sentence of the first para-
4 graph and inserting in place thereof the following:— “A sex
5 offender finally classified by the board as a level 2 or a level 3 sex
6 offender who is required to register pursuant to sections 178C to
7 178P, inclusive, shall appear in person annually at the local police
8 department in the city or town in which such sex offender has his
9 primary address, or if such sex offender does not have a primary
10 address in the commonwealth, in the city or town in which such
11 sex offender has a secondary address, works, or attends an institu-
12 tion of higher learning to verify that the registration data on file
13 remains true and accurate.”

14 Said section 178F½ of chapter 6 is further amended by striking
15 out the fourth sentence in the first paragraph and inserting in place
16 thereof the following:— Such sex offender who lists a homeless
17 shelter as his primary address shall appear in person at such local
18 police department every 90 days to verify that the registration data
19 on file remains true and accurate.

20 Said section 178F½ of chapter 6 is further amended by striking
21 out the following words in the first paragraph “the board shall
22 mail a nonforwardable verification form to the last reported
23 address of such sex offender” and inserting in place thereof the
24 following:— the board shall mail a nonforwardable verification
25 form to the last reported primary address of such sex offender.

26 Said section 178F½ of chapter 6 is further amended by striking
27 out the ninth sentence of the first paragraph and inserting in place
28 thereof the following:— Such sex offender shall, within five days
29 of receipt, sign the verification form under the penalties of perjury
30 and register in person at the police department in the municipality
31 in which such sex offender has his primary address, or if such sex
32 offender does not have a primary address in the commonwealth, in

33 the city or town in which such sex offender has a secondary
34 address, works or attends an institution of higher learning.

35 Said section 178F½ of chapter 6 is further amended by striking
36 out the last sentence of the first paragraph and inserting in place
37 thereof the following:— A sex offender finally classified as a
38 level 2 or level 3 offender shall also comply with the provisions of
39 paragraphs (g) to (j) and (o) to (q), inclusive, of section 178E, but
40 the offender shall give the required notice in person at the police
41 department in the city or town where such sex offender has his
42 primary address, or if such sex offender does not have a primary
43 address in the commonwealth, in the city or town in which such
44 sex offender has a secondary address, works or attends an institu-
45 tion of higher learning.

1 SECTION 13. Section 178J of chapter 6, as most recently
2 amended by chapter 77 of the acts of 2003, is hereby further
3 amended by striking out the clause (2) of subsection (c) and
4 inserting in place thereof the following:— (2) the primary address
5 and/or secondary addresses if located in the areas described in
6 clause (2) or (3) of subsection (b).

1 SECTION 14. Section 178K of chapter 6, as most recently
2 amended by section 13 of chapter 149 of the acts of 2004, is
3 hereby further amended by striking out the paragraph (ii) of
4 clause (c) of subsection (2) and inserting in place thereof the
5 following:—(ii) the offender's primary address and secondary
6 addresses.

1 SECTION 15. Chapter 6, Section 178(D) as amended by
2 Chapter 140 of the Acts of 2003, is hereby further amended by
3 striking out the following phrase:— “, to ensure the prompt and,
4 complete removal of registration data for persons whose duty to
5 register has terminated or expired under sections 178G, 178L or
6 178M or any other law”

7 Said Section 178(D) is further amended by striking out the
8 following phrase:—

9 “, the eligibility of sex offenders to be relieved of the obligation
10 to register, including but not limited to, regulations limiting
11 motions under subsection (e) of section 178E, section 178G and

12 relief from registration pursuant to paragraph (d) of subsection (2)
13 of section 178K”

1 SECTION 16. Chapter 6, Section 178(E) of the Massachusetts
2 General Laws is hereby amended by striking subsections (e) and
3 (f).

1 SECTION 17. Chapter 6, Section 178(G) of the Massachusetts
2 General Laws, as appearing in the 2002 official edition, is hereby
3 amended by striking out all from the word “The” in line 1 through
4 the word “others.” in line 19, inclusive.

1 SECTION 18. Chapter 6, Section 178K(1) of the Massachusetts
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by striking out in line 35 the phrase “or for relief from
4 the obligation to register”.

1 SECTION 19. Chapter 6, Section 178(K)(2) of the Massachu-
2 setts General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended by striking out in lines 96-97 the phrase: “or for
4 relief from the obligation to register”.

1 SECTION 20. Chapter 6, Section 178(K)(2) of the Massachu-
2 setts General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended by striking out subsection (d) in its entirety.

1 SECTION 21. Chapter 6, Section 178(L)(1) of the Massachu-
2 setts General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended in subsection (c) by striking out in lines 54 and
4 55 the phrase:— “and his duty to register, if any, according to
5 section 178E”.

1 SECTION 22. Chapter 6, Section 178Q, as established by
2 Chapter 26 of the Acts of 2003, is hereby amended by striking the
3 following sentence:—

4 “A sex offender’s duty to pay the fee established by this section
5 shall only terminate upon the termination of said offender’s duty
6 to register as a sex offender as set forth in section 178G.”

1 SECTION 23. Section 178L of Chapter 6 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after sub-paragraph (c), the following sub-paragraph:—
4 (d) Anyone classified after the implementation of this act as a
5 level three sex offender shall receive lifetime parole to be served
6 under the jurisdiction of the parole board as set forth in
7 section 133D of Chapter 127.